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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,526	02/10/2005	Gunter Gerhart	21812.002US	1132

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/524,526	Applicant(s) GERHART, GUNTER	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/10/05</u> . | 6) <input type="checkbox"/> Other: ____. |

Drawings

The drawings are objected to because the applicant has used improper cross sectional shading for the castor 12 in figure 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because "a securing member . . . prevents" on lines 2-3 is confusing since it is not readily apparent that the securing member includes the securing hooks. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the applicant amend the title to include the anti-lift off aspect of the invention.

Claim Objections

Claims 2-11 are objected to because they do not begin with the customary "The" or "A". Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "or" on line 1 of claim 1 render the claims indefinite because it is unclear which one of the two non-equivalent alternatives the applicant is attempting to positively set forth. Recitations such as "means of lower castors" on line 2 of claim 1 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "floor runners" on line 2 of claim 1 render the claims indefinite because it is unclear how the castors of one door element can run in more than one

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floor runner. Recitations such as "designed as" on line 2 of claim 1 render the claims indefinite because it is unclear if the floor runners are hollow bodies or were merely designed to be hollow bodies. Recitations such as "longitudinal direction" on line 3 of claim 1 render the claims indefinite because it is unclear what element of the invention includes the longitudinal axis to which the applicant refers. Recitations such as "each case" on line 4 of claim 1 render the claims indefinite because it is unclear if the applicant is setting forth an element of the invention, i.e., a case. Recitations such as "a securing member arranged" on line 8 of claim 1 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as "the said" on line 9 of claim 1 are redundant and should be changed to --the-- or --said-- only to avoid confusion. Recitations such as "the runner" on line 10 of claim 1 render the claims indefinite because it is unclear to which of the plurality of runners set forth above the applicant is referring. Recitations such as "the castor" on line 11 of claim 1 render the claims indefinite because it is unclear to which one of the plurality of castors set forth above the applicant is referring. Recitations such as "formed at a distance" on line 3 of claim 3 render the claims indefinite because it is unclear if the supporting walls are actually spaced or were merely formed apart. Recitations such as "the hub" on line 4 of claims 3 and 5 render the claims indefinite because they lack antecedent basis. Recitations such as "a frame" on line 4 of claim 6 render the claims indefinite because it is unclear what element of the invention includes the frame to which the applicant is referring. Recitations such as "the securing member mounted" on lines 2-4 of claim 7 render the claims indefinite because they are grammatically awkward and confusing.

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Recitations such as "the castors have a central guide rim" on lines 2-3 of claim 8 render the claims indefinite because it is unclear how both of the castors can have the same rim. Recitations such as "all the way around" on line 3 of claim 8 render the claims indefinite because it is unclear what element the applicant is referring to. Recitations such as "a guide slot" on lines 3-4 of claim 8 render the claims indefinite because it is unclear if the applicant is referring to the guide slot set forth above or is attempting to set forth another guide slot in addition to the one set forth above. Recitations such as "the securing member are" on lines 1-2 of claim 11 render the claims indefinite because they are grammatically awkward and confusing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ezman. Ezman discloses a wall element or a door element 2 which can be moved by means of lower castors 11 on floor runners 21 which are designed as hollow bodies with a guide slot 23 running in the longitudinal direction with the castors being mounted in each case on a castor carrier 7 and the wall element or door element being at least partially liftably and lowerably adjustable relative to the castors wherein: a securing member is 10 arranged in the region of at least one of the castors, said securing

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member entering with anchoring members 28 and 32 into the runner and securing the castor against lifting off from the runner, and the securing member is mounted on an axis of rotation of the castor, wherein the castor 11 is mounted rotatably on a central, fixed hub 16 and the securing member is mounted on the hub, wherein the securing member 10 has two supporting walls (not numbered, but shown in figure 2 engaging the hub 16 on opposite sides of the castor 11) which are formed at a distance from each other and are mounted on both sides of the castor on the castor axle or the hub, wherein the anchoring members 28 and 32 are anchoring hooks and the securing member 10 forms a lower web (not numbered, but shown in figure 4), with the securing hooks being fitted on both sides of the castor to end regions of the web, wherein the securing member 10 has a triangular design defined by the two sets of anchoring members 27, 31 and 28, 32 and the apex of the arch above the hub 16) with an upper, central corner region (not numbered, but defined by the apex of the arch above the hub 16) being mounted on the castor axle or on the hub, wherein the anchoring members 28 and 32 are securing hooks, wherein the castors 11 have a central guide rim 24 running all the way around for entering them into a guide slot 23 of the runner and supporting surfaces 25 resting on the runner on both sides of the guide rim, the supporting surfaces having an outwardly directed, inclination of approximately 0°.

Claims 1, 6, 7, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Moose. Moose discloses a wall element or door element 11 which can be moved by means of lower castors 14a, 14b on floor runners 12 which are designed

as hollow bodies with a guide slot 38 running in the longitudinal direction with the castors being mounted in each case on a castor carrier 20 and the wall element or door element being at least partially liftably and lowerably adjustable relative to the castors wherein: a securing member 18a is arranged in the region of at least one of the castors, said securing member entering with anchoring members (not numbered, but shown in figure 5 as the generally horizontal members extending in the guide slot 38) into the runner and securing the castor against lifting off from the runner, and the securing member is mounted on an axis of rotation or castor axle 17a of the castor, wherein the castor 14a is mounted on a castor carrier 20 and the latter is connected movably to a frame 13, the castor carrier having two supporting limbs (not numbered, but shown in figure 4) arranged at a distance from each other, and the castor axle 17a extending between the supporting limbs in such a manner that the castor is mounted between the supporting limbs, wherein the securing member 18b is mounted between the supporting limbs of the castor carrier, wherein the castor carrier 20 is connected pivotably to the frame via the pivot pin 28, wherein the securing member 18b are two webs 18a and 18b arranged at a distance from each other.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ezman as applied to claims 1-5 and 9 above. Ezman, as set forth above, is silent concerning a sloping inclination of the supporting surfaces of approximately 5 degrees.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the supporting surfaces having an outwardly directed, sloping inclination of approximately 5° to better center the castor 11 on the track 21.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Banner, Gephart et al., Adams, and Murase et al. are cited for disclosing a castor assembly having a retaining means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
March 15, 2007